

STANDARDS COMMITTEE AGENDA



16th October 2012

at 4.00 p.m.

**in Committee Room C,
Civic Centre, Hartlepool.**

MEMBERS: STANDARDS COMMITTEE:

Councillors Dawkins, Fleet, Griffin, Morris, Simmons, Tempest and Wells.

Co-opted Members: B Footitt, T Jackson, Reverend John Lund

Parish Councillors: A Bell, Hart Parish Council, R Musgrave, Elwick Parish Council
and 1 vacancy

- 1. APOLOGIES FOR ABSENCE**
- 2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**
- 3. MINUTES**
 - 3.1 To confirm the minutes of the meeting held on 18 July 2012
- 4. ITEMS FOR DECISION / INFORMATION**
 - 4.1 Presentation on Standards – *Chief Solicitor*

STANDARDS COMMITTEE

MINUTES AND DECISION RECORD

18 July 2012

The meeting commenced at 4.00 pm in the Civic Centre, Hartlepool

Present:

Councillors Dawkins, Fleet, Morris and Tempest

Independent Members: Ted Jackson and Professor Footitt

In accordance with Council Procedure Rule 4.2 Councillor James was in attendance as substitute for Councillor Simmons and Councillor S Akers- Belcher as substitute for Councillor Griffin

Officers: Peter Devlin, Chief Solicitor
Denise Wimpenny, Principal Democratic Services Officer

1. Appointment of Chair/Vice-Chair

The Chief Solicitor referred to the requirements of the Localism Act 2011 which introduced a new standards regime from 1 July 2012 whereby the new system was designed to be a 'clear break' with the ethical framework introduced under the Local Government Act 2000. Previously Standards Committee was a Statutory Committee with the requirement to be chaired by an Independent Member. However, this was no longer the case and under the new arrangements, meetings must be chaired by Elected Members. Where there were existing matters of complaint which were subject to formal investigation and which required reporting to a Consideration Sub-Committee, these would fall under 'transitional arrangements' with an Independent Member taking the Chair at those meetings.

It was highlighted that the Committee would be requested in the following item of business to make recommendations to Council to adopt a revised Code of Conduct as well as the appointment of the present Independent Members as 'Independent Persons' under the new regime who would no longer have voting rights.

Accordingly, nominations were sought from Elected Members for the positions of Chair and Vice-Chair.

Decision

- (i) That Councillor Simmons be appointed as Chair for the ensuing year.
- (ii) That Councillor Morris be appointed as Vice Chair for the ensuing year.

In the absence of Councillor Simmons, Councillor Morris took the Chair

Councillor Morris in the Chair

2. Apologies for Absence

Councillors Griffin and Simmons, John Lund, Independent Member and Alan Bell, Hart Parish Council Representative

3. Declarations of Interest

None

4. Minutes

The minutes of the meeting held on 17 April 2012 were confirmed.

5. Business Report (*Chief Solicitor and Monitoring Officer*)

(i) Standards – Localism Act 2011

Members were advised that previous reports had been brought to the Committee as to the emerging “new standards framework” to be operated in conjunction with the Localism Act 2011 with particular emphasis on the “sanctions issues” and that relating to the appointment of the “Independent Person”. In addition Members were referred to a draft Code of Conduct, attached at Appendix 1, which was consistent with the seven Nolan principles as set out in the report.

The Chief Solicitor and Monitoring Officer referred to the proposed arrangements for dealing with complaints and Council’s decision to retain a Standards Committee to deal with such complaints. There would no longer be a requirement for Standards Committee to include the level of representation of independent members, details of which were included in the report. There was now the requirement to have an Independent Person who could be consulted upon a complaint and that there be a substitute Independent Person to cover cases where there may be a conflict of interest or the person was otherwise unavailable. Although an Independent Person would still retain the status of being a “co-opted Member” they would only be able to act in a strictly advisory capacity.

In relation to sanctions, unlike previously, there would be a limited range of “actions” that could be taken in the new arrangements as detailed in the report.

Details of the new arrangements for maintaining a Register of Interests for Members was provided, which would now include disclosable pecuniary interests and were effective from 1 July 2012. Disclosable pecuniary interests were now a feature of the appended Code of Conduct.

(ii) Code of Conduct

Members were referred to the Local Government Association’s template and guidance note on conduct which had been circulated to Leaders and Chief Executives on 10 April 2012. A further revision to the draft was attached as an appendix which incorporated some of the features of the template in addressing the statutory principles under the Code of Conduct. On 11 April 2012, communication had been received from Bob Neil MP, Parliamentary Under Secretary of State for the Department for Communities and Local Government attaching an example of a local code. Following on from receipt of regulations covering “disclosable pecuniary interests” reference from this document had also been incorporated within the revised draft. The Committee were requested to consider this document and make recommendations to Council for the adoption of a revised code of conduct to comply with the Localism Act, 2011.

With regard to the interest section of the draft Code of Conduct, attached at Appendix 1 to the report, Members discussed the threshold for disclosure of gifts. Whilst the Committee noted there was no longer a legal requirement to formally declare gifts and hospitality, the Committee agreed that the threshold should continue at the current level of £25 and supported the views of the Constitution Committee that there should be a requirement to declare or register any gifts and hospitality to the Monitoring Officer over £25.00.

With regard to how the revised Code would be implemented, during the lengthy discussion that followed concerns were expressed that the proposals would result in Councillors operating from a different Code of Conduct dependent on the date of election and various options were suggested to address this. One of the options considered was that upon acceptance of office a declaration could be signed to confirm acceptance of the Code of Conduct. The Chief Solicitor advised that the law did not permit this to be included in the acceptance of office and further guidance was awaited from the Government in this regard. . There was, however, the opportunity to reflect this in paragraph (ix) of the Code - Duty to Uphold the Law as well as the option to review the Code in 6 months time. Members emphasised the importance of all Members operating under the same Code and ensuring the revised Code was publicised effectively to reinforce such compliance.

In relation to pre-determination or bias and attendance at Overview and Scrutiny Committee for the purpose of answering questions or giving evidence, the Committee were of the view that the code should be amended to indicate that an individual must leave the room thereafter, but only if requested to do so by the Overview and Scrutiny Committee.

(iii) Council Procedure Rules

Council Procedure Rule 23 indicated that a Member withdraws from a meeting where they had a 'prejudicial interest' in a matter, in the absence of a dispensation from Standards Committee. This was reflected in the draft Code and it was suggested that this be broadened to encompass a 'prejudicial' interest and a 'disclosable pecuniary' interest situation.

(iv) Terms of Reference – Standards Committee

A separate report was proceeding before the Constitution Committee regarding the role and remit of Standards Committee. However, details of the envisaged role and remit was included in the report.

The Chief Solicitor highlighted that the Constitution Committee were of the view that the quorum of Standards Committee should comprise 3 Elected Members and 1 Independent Person

(v) Associated Documentation

Members' views were sought in relation to the following documentation for incorporation within the Council's ethical governance framework and to publicise the same in conjunction with the arrangements to deal with complaints under that framework:-

- Recruitment Pack for Appointment of Independent Person
- Complaint Form
- Assessment Criteria
- Arrangements for dealing with standards allegations under the Localism Act 2011.
- Register of Members' Disclosable Pecuniary Interests

Referring to disclosable pecuniary interests and the Chief Solicitor's confirmation that the disclosure of pecuniary interests would cover Elected Members, their spouses/partners but not other members of the family, as detailed in Appendix 6, Members were of the view that this should be broadened to include in-laws or blood relations.

(vi) Independent Persons

Members were reminded of the opinion of Counsel obtained through the Association of Council Secretaries and Solicitors, that it was not permissible for an independent member to serve as an independent person, the criteria

of which was set out in the report. The new provisions were intended to provide that “clear break” with the old Standards Board regime that no person who was an Independent Member or Chair of a Council’s statutory Standards Committee could be appointed as an ‘independent person’ while they continued to be a member of that Committee. The correspondence also indicated that the Department for Communities and Local Government had received a number of representations and, after careful consideration, Ministers were minded that transitional provisions should be made allowing a Council to appoint a person as an independent person who, although not a member or a Chairman of a Standards Committee at the time of appointment had held such a post within the last five years. Further, such transitional provisions would apply to the first year of the new arrangements.

It was noted that there had been some confusion in relation to the provisions relating to Independent Persons and there was the recognised need to cover the completion of complaints under the ‘old’ system and those new arrangements operating under the Localism Act 2011, details of which were set out in the report. In conjunction with earlier informal guidance, most authorities had requested their existing cohort of independent members to submit formal applications to be appointed as independent persons. The operation of the transitional arrangements had become somewhat shambolic and the Local Government Association had requested clarification and formal guidance from the Department of Communities and Local Government (DCLG) to address concerns. The Monitoring Officer had been informed by DCLG that it was accepted that authorities may not be able to have in place formal approvals for a Code of Conduct and all necessary arrangements underpinning the new system to be operative by 1 July 2012 and they were taking a relaxed view so long as authorities were in the process of making the necessary arrangements. They did not intend to prohibit Independent Members from becoming the Independent Person and it would be a matter for each authority to decide upon the same, particularly as part of the transition from one system to another.

Council would therefore be requested to make appointments from amongst the present cohort of Independent Members who had expressed an interest for a period of appointment to be determined by the authority.

Given the recent advice from the Government that the present cohort of Independent Members who had expressed an interest could become independent persons until 30 June 2013, it was reported that applications had been received from Mr Jackson, Mr Lund and Professor Footitt. The current Chair of the Standards Committee, Mr Barry Gray, had not expressed an interest to continue in the role of independent person. The Constitution Committee had expressed their appreciation for Mr Gray’s contribution to the Standards Committee over the years as well as the contribution of the other three Members who had agreed to continue. It was agreed that a letter of appreciation be distributed to Mr Gray

Independent Members, Ted Jackson and Professor Footitt, who were present at the meeting, indicated what whilst they were happy to continue as Independent Persons whilst needed in Hartlepool, their commitment was to the residents of Hartlepool and were not minded to continue to provide such support outside of the Hartlepool area. Members expressed their disappointment regarding the Government's decision to revise the current arrangements which worked well in Hartlepool.

Decision

- (i) That the revised Code of Conduct, attached at Appendix 1 and associated documentation, appendices 2 to 6 be agreed subject to the additions/amendments as detailed above and submitted to Council for adoption.
- (ii) The applications of Mr Ted Jackson, Mr Brian Footitt and Reverend John Lund as Independent Persons be referred to Council for approval until 30 June 2013.
- (iii) A letter of appreciation be sent to Mr Barry Gray as the former Independent Chair of Standards Committee.

6. Any Other Exempt Items which the Chairman Considers are Urgent

The Chairman ruled that the following item of business should be considered by the Committee as a matter of urgency in accordance with the provisions of Section 100(B) (4)(b) of the Local Government Act 1972 in order that the matter could be dealt with without delay.

7. Local Government (Access to Information) (Variation) Order 2006

Under Section 100(A)(4) of the Local Government Act 1972, the press and public were excluded from the meeting for the following item of business on the grounds that it involved the likely disclosure of exempt information as defined in the paragraphs below of Part 1 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006.

Minute 8 [Complaint] (Paragraph 1 namely information relating to any individual)

8. Any Other Business – Complaint (*Chief Solicitor and Monitoring Officer*)

The Chief Solicitor and Monitoring Officer provided background information relating to a complaint which he had been unable to conclude, details of which were set out in the exempt section of the minutes.

Decision

The decision was set out in the exempt section of the minutes

The meeting concluded at 5.00 pm.

CHAIR